

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:07-00098

TONY PULLEN

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On August 24, 2018, the United States of America appeared by Gabriele Wohl, Assistant United States Attorney, and the defendant, Tony Pullen, appeared in person and by his counsel, David O. Schles, for a hearing on the petition seeking revocation of supervised release submitted by United States Probation Officer Patrick M. Fidler. The defendant commenced a five-year term of supervised release in this action on January 21, 2014, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on November 16, 2007.

The court heard the admissions of the defendant, the evidence and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found by a preponderance of the evidence that the defendant has violated the conditions of supervised release in the following respects: (1) the defendant violated state and local law inasmuch as he was in possession of a stolen motorcycle on October 1, 2017, which he knew or had reason to believe had been stolen, as more fully set forth on the record of the hearing; (2) the defendant used and possessed methamphetamine as evidenced by positive urine specimens submitted by him on January 6, July 20, September 27 and October 18, 2016; November 27 and December 6, 2017; and March 26, 2018; (3) the defendant failed to participate in substance abuse counseling sessions and appear for urine screens as directed as more fully set forth in Violation No. 3; (4) the defendant failed to participate in the Presteria/Pinecrest residential drug treatment program for a minimum period of 28 days and as long as 90 days as directed inasmuch as he entered the program on April 20, 2018, and was discharged for rule violations on May 9, 2018; and (5) the defendant failed to abide by the special condition that he refrain from the use of alcohol as evidenced by his admission to the probation officer on March 7, 2016, that he had drank a beer and used alcohol on other occasions; his admission to the

probation officer on July 20, 2016, that he had used alcohol on July 18 and 19, 2016; his admission to the probation officer on May 4, 2017, that he had consumed two cans of beer on the previous evening; his admission to the probation officer on June 12, 2017, that he had consumed beer the previous weekend; and his admission to the probation officer on July 25, 2017, that he had beer in his refrigerator and had consumed beer the previous weekend; all as admitted by the defendant on the record of the hearing with the exception of (1) as set forth above and all as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583(e), that the defendant should be confined to the extent set forth below, it is accordingly ORDERED that the

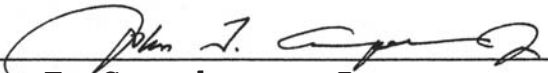
defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of TEN (10) MONTHS.

The defendant was remanded to the custody of the United States Marshal.

Recommendation: The court recommends that the defendant be designated to FCI Gilmer.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: August 28, 2018



John T. Copenhaver, Jr.
United States District Judge